



2026:AHC:168341

HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL APPEAL No. - 10955 of 2024

Saurabh Singh Alias Sandeep Singh

.....Appellant(s)

Versus

State Of U.P And Another

.....Respondent(s)

Counsel for Appellant(s)	:	Pankaj Tripathi, Sanjay Tripathi
Counsel for Respondent(s)	:	G.A., Pt. S.P. Sharma

Court No. - 93

HON'BLE SANTOSH RAI, J.

1. Heard learned counsel for the appellant, learned counsel for opposite party no.2 and learned A.G.A. for the State and perused the record.

2. This criminal appeal has been filed under Section 14 (A)(1) of S.C. & S.T Act to set aside the order dated 14.07.2023 passed by Special Judge (S.C.& S.T Act) Jhansi in Special Trail No. 69 of 2017 (State Vs Vipin Pratap Singh and others under Section 319 Cr.P.C) whereby the appellant has been summoned under Sections 323, 504, 506 I.P.C and 3(1) Dha, S.C/ S.T Act, Police Station Lahchura, District Jhansi.

3. In this case, the accused appellant Saurabh Singh alias Sandeep Singh and co-accused Rahul Singh have been summoned under Section 319 Cr.P.C. after recording the statements of PW-1 Suresh and PW-2 Braj Kishor. In the First Information Report, the accused appellant Saurabh Singh is named, along with co-accused Suresh Kumar, Vipin Pratap Singh alias Babuwa, Rahul Singh and some other persons of village. After investigation the charge-sheet has been filed by the Investigating Officer against the accused Vipin Pratap Singh and Suresh Kumar. Thereafter, cognizance has been taken and charges were framed During course of trial proceedings two accused, namely Rahul Singh and accused appellant Saurabh Singh, were summoned under Sections 323, 504, and 506 I.P.C. and 3(1) Dha, S.C. & S.T Act.

4. Learned counsel for the appellant submitted that no specific and distinct role has clearly been assigned either in the F.I.R. or in the statements of the prosecution witnesses during the course of investigation. That is why the charge-sheet has not been filed against the appellant. Furthermore, during course of trial proceeding, statements of PW-1 Suresh and PW-2 Braj Kishor were recorded. In spite of deposition of P.W.1 and P.W.2, no prima facie case was made out against the appellant Saurabh Singh alias Sandeep Singh. Learned trial court has wrongly summoned the appellant under section 319 Cr.P.C.

5. Learned counsel opposite party no. 2 and learned A.G.A. vehemently opposed the submission of learned counsel for the appellant. Learned counsel opposite party no.2 submitted that on the basis of statements of P.W.1 and P.W.2, two accused persons, namely accused appellant Saurabh Singh alias Sandeep Singh and Rahul Singh were summoned. Investigating Officer has wrongly exonerated both accused persons in the charge-sheet.

6. Admittedly, in the first information report, four accused persons are named along with some other accused persons of village. But in the F.I.R. itself, no specific or distinct role has been assigned against the appellant Saurabh Singh alias Sandeep Singh regarding causing injury to the injured or using casteist slur in order to insult or humiliate the victim. General allegations have been made against all the accused persons, who are named in the first information report, for using caste based derogatory words. P.W.1 Suresh in his statement, has stated the specific role to one of the accused, Rahul Singh regarding causing injury with hard and blunt object i.e danda. Regarding general role, he stated that Saurabh Singh alias Sandeep Singh and other accused persons used the word chamar and they were present on the spot with lathis and danda. P.W.1 and P.W.2 have not stated anywhere specific role of the accused appellant Saurabh Singh alias Sandeep Singh regarding causing injury or using casteist slur in order to insult or humiliate the victim on the sole ground that victim belongs to S.C.& S.T. category. Thus, it appears that so far as summoning the accused appellant Saurabh Singh alias Sandeep Singh is concerned, trial court has not perused the material available on record in the light of established legal

principles.

7. In the case of ***Swaran singh Vs State (2008)8SCC 435*** the Hon'ble Apex Court drew a clear distinction between the expressions "public place" and "any place within public view." A private place may still be a place within public view if the incident is visible to members of the public. Conversely, merely because an incident occurs in a public building does not automatically satisfy the requirement if it is not within public view. The Supreme Court held that words such as "Chamar", though originally denoting a caste, may amount to an offence if used as a casteist abuse with intent to humiliate a member of the Scheduled Castes. The Court emphasized that words should be understood in their popular and social meaning, not merely their etymological meaning. For attracting Section 3(1)(x) (now Sections 3(1)(r) and 3(1)(s)), there must be intentional insult or intimidation; and intent to humiliate the victim because he or she belongs to a Scheduled Caste or Scheduled Tribe. Mere abuse or quarrel, without the requisite intention contemplated by the Act, is insufficient. The Court reiterated that criminal proceedings should continue only where the allegations disclose a prima facie offence against the particular accused. Proceedings may be quashed where the FIR does not disclose the essential ingredients against an accused.

8. In ***Gorige Pentaiah Vs state of AP & Ors 2009 Cri.L.J.350*** Honble Apex court held " when the basic ingredients of the offence are missing in the complaint, then permitting such complaint to continue and to compel the appellant to face the rigmarole of the criminal trial would be totally unjustified leading to abuse of process of law." In the case of ***Hitesh Verma vs. State of Uttarakhand (2020) 10 SCC 710***, the Hon'ble Supreme Court held that 'a dispute that arose inside the private house of a complainant over the possession of the land without the presence of independent public witnesses, does not satisfy the statutory threshold Section 3(1) (r).

9. In the case of ***Shajan Skraria vs. State of Kerala and another, 2024 SCC Online SC 2249*** the Hon'ble Apex Court by quoting the cases of ***Hitesh Verma (Supra)*** has held as under:

"13. The offence under Section 3(1)(r) of the Act would

indicate the ingredient of intentional insult and intimidation with an intent to humiliate a member of a Scheduled Caste or a Scheduled Tribe. All insults or intimidations to a person will not be an offence under the Act unless such insult or intimidation is on account of victim belonging to Scheduled Caste or Scheduled Tribe. The object of the Act is to improve the socio-economic conditions of the Scheduled Castes and the Scheduled Tribes as they are denied number of civil rights. Thus, an offence under the Act would be made out when a member of the vulnerable section of the society is subjected to indignities, humiliations and harassment. The assertion of title over the land by either of the parties is not due to either the indignities, humiliations or harassment. Every citizen has a right to avail their remedies in accordance with law. Therefore, if the appellant or his family members have invoked jurisdiction of the civil court, or that Respondent 2 has invoked the jurisdiction of the civil court, then the parties are availing their remedies in accordance with the procedure established by law. Such action is not for the reason that Respondent 2 is a member of Scheduled Caste."

In Khuman Singh v. State of M.P., (2020) 18 SCC 763

"15. As held by the Supreme Court, the offence must be such so as to attract the offence under Section 3(2)(v) of the Act. The offence must have been committed against the person on the ground that such person is a member of Scheduled Caste and Scheduled Tribe.

Thus, the dictum as laid aforesaid is that the offence under Section 3(1)(r) of the Act, 1989 is not established merely on the fact that the complainant is a member of a Scheduled Caste or a Scheduled Tribe, unless there is an intention to humiliate such a member for the reason that he belongs to such community. In other words, it is not the purport of the Act, 1989 that every act of intentional insult or intimidation meted by a person who is not a member of a Scheduled Caste or Scheduled Tribe to a person who belongs to a

Scheduled Caste or Scheduled Tribe would attract Section 3(1)(r) of the Act, 1989 merely because it is committed against a person who happens to be a member of a Scheduled Caste or Scheduled Tribe. On the contrary, Section 3(1)(r) of the Act, 1989 is attracted where the reason for the intentional insult or intimidation is that the person who is subjected to it belongs to a Scheduled Caste or Scheduled Tribe. I say so because the object behind the enactment of the Act, 1989 was to provide stringent provisions for punishment of offences which are targeted towards persons belonging to the SC/ST communities for the reason of their caste status."

10. For the purpose of Section 319 Cr.P.C., it requires cogent and reliable material against accused in the light of **Hardeep Singh v. State of Punjab & Ors. (2014) 3 SCC 92**, Hon'ble Apex Court held that :

"105. Power under Section 319 CrPC is a discretionary and an extraordinary power. It is to be exercised sparingly and only in those cases where the circumstances of the case so warrant. It is not to be exercised because the Magistrate or the Sessions Judge is of the opinion that some other person may also be guilty of committing that offence. Only where strong and cogent evidence occurs against a person from the evidence led before the court that such power should be exercised and not in a casual and cavalier manner.

106. Thus, we hold that though only a prima facie case is to be established from the evidence led before the court, not necessarily tested on the anvil of cross-examination, it requires much stronger evidence than mere probability of his complicity. The test that has to be applied is one which is more than prima facie case as exercised at the time of framing of charge, but short of satisfaction to an extent that the evidence, if goes unrebutted, would lead to conviction. In the absence of such satisfaction, the court should refrain from exercising power under Section 319 CrPC. In Section

319 CrPC the purpose of providing if "it appears from the evidence that any person not being the accused has committed any offence" is clear from the words "for which such person could be tried together with the accused". The words used are not "for which such person could be convicted". There is, therefore, no scope for the court acting under Section 319 Cr.P.C. to form any opinion as to the guilt of the accused.

117.5. Though under Section 319(4)(b) CrPC the accused subsequently impleaded is to be treated as if he had been an accused when the court initially took cognizance of the offence, the degree of satisfaction that will be required for summoning a person under Section 319 CrPC would be the same as for framing a charge". The difference in the degree of satisfaction for summoning the original accused and a subsequent accused is on account of the fact that the trial may have already commenced against the original accused and it is in the course of such trial that materials are disclosed against the newly summoned accused. Fresh summoning of an accused will result in delay of the trial therefore the degree of satisfaction for summoning the accused (original and subsequent) has to be different."

11. Accordingly, having bestowed anxious consideration to the rival submissions and upon a careful scrutiny of the entire material available on record, this Court is of the considered opinion that the prosecution has failed to disclose even a prima facie case attracting the provisions of Section 3(1) Dha, S.C/ S.T Act. The material collected during inquiry does not indicate that the alleged words or conduct were actuated by the caste or were intended to intentionally insult or humiliate any person on the ground that he belonged to a Scheduled Caste or Scheduled Tribe. Equally absent is any material to establish that the alleged occurrence took place in a place within "public view", which is a *sine qua non* for constituting the offence under the aforesaid provisions, as explained by the Hon'ble Supreme Court in **Swaran Singh** further reaffirmed in **Hitesh Verma** and **Shajan Skaria** (supra). Likewise, the allegations are wholly

insufficient to satisfy the essential ingredients of Sections 323, 504, 506 I.P.C

12. Further more, having regard to the settled legal position expounded by the Constitution Bench of the Hon'ble Supreme Court in **Hardeep Singh** (supra) wherein it was held that the extraordinary power under Section 319 of the Cr.P.C. is to be exercised sparingly and only where strong and cogent evidence, substantially higher than a mere prima facie case at the stage of framing charges, are available on record, the impugned summoning order fails to meet the requisite legal threshold. In the absence of any reliable, sterling material or evidence pointing unmistakably towards the complicity of the appellant, the trial court erred in law by summoning the appellant under Section 319 Cr.P.C. in a casual and cavalier manner.

13. Consequently, the present appeal is **allowed**, and the impugned summoning order dated 14.7.2023 passed by Special Judge (S.C.& S.T Act) Jhansi, in Special Trial No. 69 of 2017 (State Vs Vipin Pratap Singh) whereby the appellant has been summoned under Sections 323, 504, 506 I.P.C and 3(1) Dha, S.C/ S.T Act, Police Station Lahchura, District Jhansi is set aside in respect of the appellant Saurabh Singh alias Sandeep Singh.

August 11, 2026/Asha

(Santosh Rai,J.)